

### **Remarks**

Reconsideration and reexamination of the above-identified patent application, as amended, are respectfully requested. Claims 1-7 and 9-10 are pending in this application upon entry of this Amendment. In this Amendment, the Applicant has amended claims 1 and 9; and has cancelled claims 8 and 13-17. No claims have been added in this Amendment. Of the pending claims, claim 1 is the only independent claim.

The Applicant has amended independent claim 1 to include the limitations of its cancelled dependent claim 8; and has amended claim 9 to depend on claim 1 instead of depending on claim 8. As such, the Applicant believes that the claim amendments do not raise any new issues requiring further consideration and/or search. Accordingly, the Applicant respectfully requests entry of the claim amendments made herein.

### **Claim Rejections - 35 U.S.C. § 103**

In the final Office Action mailed on April 28, 2004, the Examiner rejected claims 1-3, 10, and 13-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,608,447 issued to Farry et al. ("Farry") in view of U.S. Patent No. 5,559,955 issued to Dev et al. ("Dev") and U.S. Patent No. 5,513,171 issued to Ludwiczak ("Ludwiczak").

As indicated above, the Applicant has cancelled claim 13-15 and has amended independent claim 1 to include the limitations of its cancelled dependent claim 8. As indicated below, the Examiner rejected claim 8 under 35 U.S.C. § 103(a) in view of Farry, Dev, Ludwiczak, and additional prior art references. Accordingly, the Applicant believes that amended independent claim 1 is patentable under 35 U.S.C. § 103(a) over Farry, Dev, and Ludwiczak. Claims 2-3 and 10 depend from amended independent claim 1 and include the limitations therein. Therefore, the Applicant respectfully requests reconsideration and withdraw of the rejection to claims 1-3 and 10 under 35 U.S.C. § 103(a).

The Examiner rejected claims 8-9 under 35 U.S.C. § 103(a) as being unpatentable over Farry, Dev, and Ludwiczak in view of U.S. Patent No. 5,519,830 issued to Opoczynski ("Opoczynski") and U.S. Patent No. 6,137, 793 issued to Gorman et al. ("Gorman"). As indicated above, the Applicant has amended independent claim 1 to include the limitations of its cancelled dependent claim 8. The Applicant respectfully traverses the rejection with respect to claim 8 and believes that the claimed invention as recited in amended independent claim 1 is patentable under 35 U.S.C. § 103(a) over Farry, Dev, Ludwiczak, Opoczynski, and Gorman.

### **1. The Claimed Invention**

Amended independent claim 1 provides a hybrid fiber coax (HFC) network having network elements operable for communicating telephony, data, and video signals with customer-premises equipment (CPE) of a given subscriber. The network elements include a host digital terminal (HDT) for communicating the telephony signals, a cable modem termination system (CMTS) for communicating the data signals, and video equipment for communicating the video signals.

The HFC network includes a service, design, and inventory (SDI) database operable for storing data indicative of the configuration of the network elements and CPE of subscribers, assigned capacity of the network elements, and the physical and logical connections between the network elements themselves and with the CPE of the subscribers.

The HFC network further includes an online provisioning application link (OPAL). The OPAL is operable with the SDI database to access the stored data for automatically, without manual intervention, provisioning network elements with the CPE of a given subscriber based on the configuration of the network elements and the CPE of the given subscriber and based on the assigned capacity of the network elements such that the provisioned network elements and the CPE of the given subscriber are physically and logically connected in order to enable communication of telephony, data, and video signals between the

HFC network and the CPE of the given subscriber. The SDI database is operable with the OPAL in order to automatically update, without manual intervention, the stored data indicative of the configuration of the network elements and the CPE of the subscribers, the assigned capacity of the network elements, and the physical and logical connections between the network elements themselves and with the CPE of the subscribers to account for the automated provisioning of the provisioned network elements with the CPE of the given subscriber.

## **2. The Claimed Invention Compared to the Cited Prior Art**

The claimed invention as recited in amended independent claim 1 generally differs from any combination of Farry, Dev, Ludwiczak, Opoczynski, and Gorman in that in the claimed invention the OPAL is operable to access the stored data of the SDI database for automatically provisioning network elements (which include the claimed HDT, CMTS, and video equipment) with the CPE of a subscriber based on 1) the configuration of the network elements and the CPE and based on 2) the assigned capacity of the network elements such that the provisioned network elements and the CPE are physically and logically connected in order to enable communication of telephony, data, and video signals between the HFC network and the CPE. The Applicant notes that it is possible for network elements to be physically, but not logically related (see page 16, line 7 of the Applicant's specification).

As such, the claimed invention automatically provisions network elements with the CPE such that the provisioned network elements and the CPE are physically and logically connected. That is, the provisioning of the network elements with the CPE causes the provisioned network elements and the CPE to be physically and logically connected. In contrast, Ludwiczak teaches that the network elements are already connected to the CPE and that automated provisioning includes allocating more (or less) resources of the network elements already connected to the CPE for use by the CPE. Accordingly, the Applicant believes that the combination of Farry, Dev, Ludwiczak, Opoczynski, and Gorman does not teach or suggest the claimed feature of automated provisioning of network elements (which

network elements include the claimed HDT, CMTS, and video equipment) with CPE to thereby physically and logically connect the provisioned network elements with the CPE.

Therefore, the Applicant believes that amended independent claim 1 is patentable under 35 U.S.C. § 103(a) over Farry, Dev, Ludwiczak, Opoczynski, and Gorman. Claims 2-3 and 10 depend from amended independent claim 1 and include the limitations therein. Thus, the Applicant respectfully requests reconsideration and withdraw of the rejection to claims 1-3 and 10 under 35 U.S.C. § 103(a).

The Examiner rejected dependent claims 4-7 and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over Farry, Dev, and Ludwiczak in further view of U.S. Patent No. 4,972,453 issued to Daniel, III et al. ("Daniel"). Claims 16-17 have been cancelled. Claims 4-7 depend from independent claim 1 and include the limitations therein. Thus, claims 4-7 are believed to be patentable under 35 U.S.C. § 103(a) in view of Farry, Dev, Ludwiczak, and Daniel and the Applicant respectfully requests reconsideration and withdraw of the rejection to claims 4-7 under 35 U.S.C. § 103(a).

### **CONCLUSION**

In summary, claims 1-7 and 9-10, as amended, meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested.

If a telephone or video conference would expedite allowance or resolve any further questions, such a conference is invited at the convenience of the Examiner.

Respectfully submitted,

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